

REMARKS

In the Office Action dated June 16, 2004, claims 86-99 were presented for examination. Claims 86-99 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Waits et al.*, U.S. Patent No. 5,721,831, in view of *Gisby*, U.S. Patent No. 6,118,865.

Applicant wishes to thank the Examiner for the careful and thorough review and action on the merits in this application.

I. 35 U.S.C. §103(a) - Obviousness in view of *Waits et al.* and *Gisby*

Claims 86-99 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Waits et al.*, U.S. Patent No. 5,721,831, in view of *Gisby*, U.S. Patent No. 6,118,865.

The *Waits et al.* patent teaches a method and system for recording results of manually defined marketing activity of elements in a database. More specifically, *Waits et al.* generates a collection of customers sharing common characteristics, defined as a segment. Specific actions may be taken upon the segment to pursue a marketing goal. Changes to the segment in response to the actions may be viewed in tabular or graphical formats.

The *Gisby* patent teaches a telephone system for conducting a survey. An incoming telephone call is selected to be queried for participating in a telephonic survey. In response to the query, the incoming call is either routed to participate in a survey or routed not to participate in a survey. The *Gisby* patent is not related to a method and system for conducting a general set of marketing and sales efforts. Rather, *Gisby* allows for the gathering of information from prospective telephone calls initiated by the potential survey participant without describing a method in which the information can be used.

Applicant's invention as shown in claims 86-99 functions on a different principle than that taught in *Waits et al.* and *Gisby*. Applicant's invention pertains to a lead in a marketing campaign, wherein the marketing campaign is defined in the Specification as a process in which

a user or users have the ability to designate a marketing strategy that is specific to a lead based on multiple fields of information, modify both the lead's information and the strategy designated to that lead, and implement the strategy by accessing all leads that have been designated to that strategy. In addition, Applicant defines in the Specification a lead as a customer targeted by the entity conducting the campaign, and stations which define a workflow based on the type of lead and required follow-up. Page 9, lines 26-27. *Waits et al.* does not teach a station as alleged by the Examiner. The Examiner indicates the station of Applicant is defined in *Waits et al.* as either a Strategy, Campaign, Mailing List, Tracking, and/or Analysis. See Second Office Action, Page 3. The Strategy of *Waits et al.* is defined as "a goal toward which the bank is working." Col. 4, lines 15-16. The Campaign of *Waits et al.* is defined as "specific actions to be taken in pursuit of a strategy". Col. 4, line 32. The Mailing List of *Waits et al.* is defined as "a list of addresses or persons within the segment". Col. 4, lines 42-43. The Tracking of *Waits et al.* is defined as "gives information about the response of customers to a campaign". Col. 5, lines 13-14. Finally, the Analysis of *Waits et al.* is defined as "allows used to view the data associated with the segment in tabular or graphical format." Col. 5, lines 49-51. None of these elements as defined by *Waits et al.* is a station or an equivalent thereof as defined by Applicant. Applicant's station as defined in the application as "a predefined workflow based on the type of lead and required follow-up". Page 9, lines 26-27. There clearly is no station in *Waits et al.* as there is no provision for a workflow in *Waits et al.* Rather *Waits et al.* pertains to sets of data in a database, conducting marketing efforts on the sets of data, and analyzing the results of the marketing efforts. Furthermore, there is no follow-up on leads associated with the Campaign of *Waits et al.* Applicant claims leads and stations in the medium, and means in the medium for applying rules of the marketing campaign to the lead. This is the workflow of Applicant. There is no teaching or suggestion in *Waits et al.* for a workflow or follow-up procedure associated with a specific lead, wherein a lead may proceed to a station requiring additional marketing services.

Similarly, *Gisby* does not pertain to a marketing and sales campaign. Rather, *Gisby* teaches a method and system for mining information from a telephone call in the form of a survey in which callers are requested to participate. It is the information gathered from a survey technique in *Gisby* that may result in the person associated with the telephone call becoming a

lead in a marketing campaign. A survey is defined as "A gathering of a sample of data or opinions considered to be representative of a whole."¹ A survey does not market a product or service. It merely collects data that may be used in another medium for marketing purposes. In fact, *Gishy* does not provide any indication that there can be multiple call center administrators, managers, or responsible parties in charge of selecting incoming calls. Furthermore, *Gishy* does not support determining a strategy based upon multiple fields of information specific to the survey participant, or that the designated strategy can be determined by multiple fields of information as defined in the lead, workflow, and marketing campaign of Applicant. Accordingly, there is no suggestion or teaching in *Wait et al.* or *Gishy* to apply rules of a marketing campaign, support for a station and moving a lead to a subsequent station in a marketing campaign as a response to a reaction of the lead in a prior station.

The creation of a workflow with leads and stations to create and manage a marketing campaign is not trivial. In order for the claimed invention to be obvious under 35 U.S.C. §103(a), the prior art must teach or suggest all claimed limitations presented by the claimed invention. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP §2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). As mentioned above, there is no teaching, suggestion or motivation in *Waits et al.* for a station or lead as defined by Applicant, nor is there a teaching, suggestion, or motivation in *Waits et al.* to move leads among the stations. Similarly, there is no teaching suggestion or motivation in *Gishy* to move leads among stations in a marketing campaign. Accordingly, the cited prior art fails to teach or suggest all the claim limitations present in Applicant's claimed invention.

For it to be obvious to combine prior art references, the references must teach, suggest, or motivate one with ordinary skill in the art to combine the references and create the claimed invention. "Obviousness can only be established by combining or modifying the teachings of the

¹ Dictionary.com (available at <<http://dictionary.reference.com/search?r=2&q=survey>>) (last visited Aug. 12, 2004), citing THE AMERICAN HERITAGE® DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2000), attached as Exhibit A.

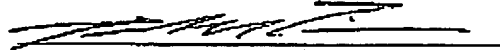
prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP §2143.01. The *Waits et al.* patent discloses a marketing campaign management tool, but it does not disclose use of a lead or station, or moving leads among stations based upon reactions of the lead in a marketing effort. *Gishy* discusses moving telephone callers to one of two locations to either participate in a survey or not to participate in a survey. As such, *Gishy* is limited to a survey tool for mining data obtained by one source, but does not provide a method or system for conducting and managing a marketing campaign. Neither of the references disclose information pertaining to the details of the marketing campaign, and how to monitor, track, and promote the progress of a lead within a marketing campaign. Accordingly, none of the prior art references utilized by the Examiner teaches, suggests, or motivates one of ordinary skill in the art into creating a tool to apply rules of a marketing campaign to a lead, and to move the lead in a workflow of the marketing campaign, as claimed by Applicant.

Furthermore, the prior art must teach the desirability of the modification suggested by the Examiner. "The mere fact the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon et al.*, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). *Gishy* does not disclose or use leads on a marketing campaign. *Waits et al.* discloses use of a database to create a marketing effort. However, it is limited to use of multiple fields in a medium complementary to that taught by Applicant, and does not provide the means in the medium for applying rules of a marketing campaign to the lead, *i.e.* workflow, as taught by Applicant. The only motivation to combine *Waits et al.* with *Gishy* to create a database and workflow for managing a marketing campaign is found in Applicant's disclosure. Accordingly, none of the prior art references suggests the desirability of the modifications represented by Applicant's claimed invention.

In light of the foregoing remarks, all of the claims now presented are in condition for allowance, and Applicants respectfully request that the outstanding rejections be withdrawn and this application be passed to issue.

The Examiner is urged to call the undersigned at the number listed below if, in the Examiner's opinion, such a phone conference would aid in furthering the prosecution of this application.

Respectfully submitted,



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Date: August 16, 2004